IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3638 OF 2007

Mohammed Anis Ramzan Khan ..Petitioner

Vs.

Mr. Babulal K. Jain ..Respondent

Mr. Anilkumar Singh i/b Mr. D.R. Shah for petitioner.
Mr. P.S. Dani for respondent.

CORAM: B.H. MARLAPALLE, J.

Date : May 04, 2007.

P.C.:

1. Heard Mr. Singh the learned counsel for the petitioner-plaintiff and Mr. Dani the learned counsel for the defendant-landlord. In RAD Suit No. 468 of 2006 the plaintiff had taken out an Interim Notice at Exh. 6 praying for an order of injunction during the pendency of the suit.

2. Both the courts below have recorded a prima facie finding that the plaintiff has kept the suit premises locked and, therefore, there was no question

of disturbing his possession over the same i.e. Room No. 9, Terrace Floor, Naju Villa, Chatrapati Shivaji Marg, Vakola Bridge, Santacruz (E), Mumbai - 400 055. Mr. Singh the learned counsel submitted that even if the petitioner is not presently occupying the premises, he cannot be dispossessed or evicted without following the due process of law. Mr. Dani the learned counsel for the defendant-landlord does not dispute that in case the landlord has to evict or dispossess the petitioner from the suit premises, the same can be done by following the due process of law and, therefore, no interference is called for in the order rejecting the application at Exh.6.

3. Hence the petition is rejected summarily. This order is confined only to the extent of the tenant - landlord relationship between the parties.

(B.H. Marlapalle,J.)